

SUPERIOR COURT
OF THE
STATE OF DELAWARE

RICHARD F. STOKES
JUDGE

1 THE CIRCLE, SUITE 2
SUSSEX COUNTY COURTHOUSE
GEORGETOWN, DE 19947

June 20, 2007

George J. Dombrosky
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

RE: State v. Dombrosky, Def. ID# 9708004381

DATE SUBMITTED: May 31, 2007

Dear Mr. Dombrosky:

On May 29, 2007, defendant George J. Dombrosky ("defendant") filed his fifth motion for postconviction relief pursuant to Superior Court Criminal Rule 61 ("Rule 61"). This is my decision denying the motion.

Defendant pled guilty to murder in the second degree and unlawful sexual intercourse in the first degree, and was sentenced thereon on September 4, 1998. He did not appeal therefrom. This Court denied defendant's four previously-filed postconviction motions. State v. Dombrosky, Del. Super., Def. ID# 9708004381, Lee, J. (August 10, 1999), app. dismiss., 741 A.2d 1026 (Del. 1999); State v. Dombrosky, Del. Super., Def. ID# 9708004381, Stokes, J. (Jan. 14, 2002); State v. Dombrosky, Del. Super., Def. ID# 9708004381, Stokes, J. (July 1, 2004); and State v. Dombrosky, Del. Super., Def. ID# 9708004381, Stokes, J. (April 11, 2005).

In his fifth motion, defendant argues that the EMS report and autopsy report clear defendant of committing rape; he was tricked into taking an open plea agreement; and his trial attorney forced him into taking the plea. He does not make any attempt to overcome any procedural bars.

The procedural bars of Rule 61(i) require this Court to deny his motion.¹ The motion is time-barred. Rule 61(i)(1). The repetitive arguments are barred. Rule 61(i)(2). The previously adjudicated grounds are barred. Rule 61(i)(4). Defendant has not presented any reason why his arguments should be reconsidered in the interest of justice, nor has he argued that this Court

¹In the applicable version of Superior Court Criminal Rule 61(i), it is provided as follows:

Bars to relief. (1) Time limitation. A motion for postconviction relief may not be filed more than three years after the judgment of conviction is final or, if it asserts a retroactively applicable right that is newly recognized after the judgment of conviction is final, more than three years after the right is first recognized by the Supreme Court of Delaware or by the United States Supreme Court.

(2) Repetitive motion. Any ground for relief that was not asserted in a prior postconviction proceeding, as required by subdivision (b)(2) of this rule, is thereafter barred, unless consideration of the claim is warranted in the interest of justice.

(3) Procedural default. Any ground for relief that was not asserted in the proceedings leading to the judgment of conviction, as required by the rules of this court, is thereafter barred, unless the movant shows

(A) Cause for relief from the procedural default and

(B) Prejudice from violation of the movant's rights.

(4) Former adjudication. Any ground for relief that was formerly adjudicated, whether in the proceedings leading to the judgment of conviction, in an appeal, in a postconviction proceeding, or in a federal habeas corpus proceeding, is thereafter barred, unless reconsideration of the claim is warranted in the interest of justice.

(5) Bars inapplicable. The bars to relief in paragraphs (1), (2), and (3) of this subdivision shall not apply to a claim that the court lacked jurisdiction or to a colorable claim that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction.

lacked jurisdiction or that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction. Because defendant has not overcome the procedural bars to this Court's consideration of his Rule 61 motion, the motion must be denied.

For the foregoing reasons, the motion is denied.

IT IS SO ORDERED.

Very truly yours,

Richard F. Stokes

cc: Prothonotary's Office
Department of Justice
Office of the Public Defender